

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

GREENFIELD UNION SCHOOL
DISTRICT-BAKERSFIELD,

v.

PARENT ON BEHALF OF STUDENT.

OAH Case No. 2015060090

ORDER GRANTING REQUEST FOR
CONTINUANCE AND SETTING
PREHEARING CONFERENCE AND
DUE PROCESS HEARING

On June 15, 2015, Student's counsel Nicole Hodge Amey filed a request to continue the dates in this matter supported by a declaration under penalty of perjury. The basis for her request was 1) she did not receive a copy of the complaint served on Student until several days after it was filed; 2) she had other legal matters to attend to depriving her of time to prepare for hearing in this case, and 3) she had a pre-paid family vacation from June 24, 2015 through July 3, 2015, which conflicted with the initial hearing date. District's counsel, Stacy Inman, filed a declaration in response to Student's motion, informing OAH that District did not oppose a continuance on the ground that Student's counsel had a pre-paid vacation that conflicted with initial hearing date.

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. Ms. Amey's declaration established good cause for a continuance on the sole ground that she has a prepaid family vacation that conflicts with the scheduled hearing

date. Ms. Amey's declaration requests July 14, 2015, as the new hearing date but does not specify the number of days needed for hearing or offer a date for the prehearing conference. Ms. Inman's declaration represents that counsel have agreed that the hearing shall take place on August 18-20, 2015.

Good cause exists for granting a continuance and therefore the request is:

☒ Granted. All dates are vacated. This matter will be set as follows

Prehearing Conference: August 7, 2015 at 10:00 a.m.

Due Process Hearing: August 18, 2015 at 9:30 a.m., August 19 and 20, 2015 at 9:00 a.m., and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

IT IS SO ORDERED.

DATE: June 17, 2015

/s/

ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings